

SUE FAHAMI
Acting United States Attorney
District of Nevada
Nevada Bar No. 5634

KARISSA D. NEFF
Assistant United States Attorney
Nevada Bar No. 9133
501 Las Vegas Blvd. So., Suite 1100
Las Vegas, Nevada 89101
(702) 388-6336

Karissa.Neff@usdoj.gov
Attorneys for Federal Defendants
Tibbits and Angotti

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BRANDON KOTANIEMI, individually and as special co-administrator of the Estate of MARSHA KOTANIEMI; STEVEN KOTANIEMI, individually and as special co-administrator of the Estate of MARSHA KOTANIEMI.

Case No. 25-cv-00540

Notice of Removal

Plaintiff

vs.

BRIAN C. WARD, MD, an individual in his official capacity; STEPHANIE MARTINEZ, MD, an individual in her official capacity; EMILY TIBBITS, MD, an individual; LISA ANGOTTI, MD an individual; STATE OF NEVADA ex rel THE BOARD OF REGENTS OF THE NEVADA SYSTEM OF HIGHER EDUCATION ex rel THE UNIVERSITY OF NEVADA, LAS VEGAS, a political subdivision; DOE INDIVIDUALS I-X, inclusive; and ROE CORPORATIONS I-X, inclusive.

Defendants.

Pursuant to 28 U.S.C. §§ 1442(a), 1446, and 2679(d)(2), the United States of America, for itself and on behalf of defendants Emily Tibbits, MD, an individual, and Lisa Angotti,

1 MD, an individual, (collectively “Federal Defendants”) file this Notice of Removal of the
 2 above-captioned action to the United States District Court for the District of Nevada. The
 3 grounds for removal are set forth below.

4 On or about February 4, 2025, Plaintiffs commenced this action in the Eighth Judicial
 5 District Court, Clark County, Nevada as Case No. A-25-911713-C, alleging medical
 6 malpractice against the named defendants, including Federal Defendants. Federal
 7 Defendants are members of the Air Force who were acting within the scope of federal
 8 employment pursuant to 28 U.S.C. § 2679 at the time of the events alleged in the complaint.

9 Federal district courts have exclusive jurisdiction for tort claims arising under the
 10 Federal Tort Claims Act from the negligent or wrongful acts or omissions of federal
 11 employees acting within the scope of their employment or office. *See* 28 U.S.C. § 1346(b)(1).

12 This action is being removed to the United States District Court pursuant to 28
 13 U.S.C. § 1442(a)(1), (3), which provides, in pertinent part:

14 (a) A civil action or criminal prosecution commenced in a State court and that
 15 is against any of the following may be removed by them to the district court of
 16 the United States for the district and division embracing the place wherein it is
 17 pending:

18 (1) The United States or any agency thereof or any officer (or any
 19 person acting under that officer) of the United States or of any agency
 20 thereof, in an official or individual capacity, for or relating to any act
 21 under color of such office or on account of any right, title or authority
 22 claimed under any Act of Congress for the apprehension or
 23 punishment of criminals or the collection of the revenue.
 24 (3) Any officer of the courts of the United States, for or relating to any
 25 act under color of office or in the performance of his duties.

26 Section 1442(a)(1) provides for a “broad” grant of removal jurisdiction; it is not given
 27 a “narrow, grudging interpretation.” *Nationwide Investors v. Miller*, 793 F.2d 1044, 1046 (9th
 28 Cir. 1986) (citing *Willingham v. Morgan*, 395 U.S. 402, 407 (1969)). Under Section
 1442(a)(1), federal court jurisdiction need not even be apparent from the face of the
 complaint. *See Jefferson County v. Acker*, 527 U.S. 423 (1999); *Mesa v. California*, 489 U.S. 121
 (1989). The long-standing purpose of this removal statute is to ensure a federal forum in any
 case where a federal official is entitled to raise a defense arising out of his official duties.

¹ *Swett v. Schenk*, 792 F.2d 1447, 1450 (9th Cir. 1986) (quoting *Arizona v. Manypenny*, 451 U.S. 232, 241 (1981)).

3 Plaintiffs have commenced this action “against” Federal Defendants, employees of
4 the United States of the United States within the meaning of 28 U.S.C. § 1442(a)(1),(3).¹

Attached hereto as Exhibits A and B, are copies of the complaint and the docket sheet showing other filings thus far in the state court. These removing Federal Defendants have defenses and immunities that they are entitled to raise in a federal forum.

8 Plaintiffs have not effected service of process on these removing federal employees in
9 accordance with applicable rules. *See* Nev. R. Civ. P. 4.3(a)(5) (“Service upon the United
10 States and its agencies, corporations, officers, or employees may be made as provided by
11 Rule 4 of the Federal Rules of Civil Procedure.”); Fed. R. Civ. P. 4(i)(1), (2), (3)
12 (requirements for service on United States and its employees/officials); Fed. R. Civ. P.
13 12(a)(2), (3) (each federal defendant’s response to a complaint is due 60 days after service on
14 the U.S. Attorney of process directed to each such defendant). These removing federal
15 employees do not, through this removal, waive any defenses including without limitation
16 lack of service of process.

17 WHEREFORE, these removing Federal Defendants give notice that the above-
18 captioned action has been removed from the Eighth Judicial District Court, Clark County,
19 Nevada to the United States District Court for the District of Nevada.

Respectfully submitted this 24th day of March 2025.

21 SUE FAHAMI
22 Acting United States Attorney

23 /s/ Karissa D. Neff
24 KARISSA D. NEFF
Assistant United States Attorney

²⁷ ¹ Plaintiffs have named as defendants officers and/or employees of the United States who
²⁸ have not been served with process and/or they have pending with the Department of Justice
requests for representation.

1 **Certificate of Service**

2 I, Cortney Bivens, hereby certify that on March 24, 2025, I electronically filed and
3 served the foregoing Notice of Removal with the Clerk of the Court for the United States
4 District Court for the District of Nevada using the CM/ECF system and via US Mail to the
5 address below.

6 **US Mail**

7 Tom W. Stewart
c/o The Powell Law Firm
8 8918 Spanish Ridge Avenue, Ste 100
Las Vegas, NV 89148
9 tom@tplf.com

10 *Attorneys for Plaintiffs*

23 */s/ Cortney Bivens*
Paralegal